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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/724,822	11/28/2000	Matthew D. Linnik	252312007400	7723

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04/23/2002

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EXAMINER

QIAN, CELINE X

ART UNIT

PAPER NUMBER

1636

DATE MAILED: 04/23/2002

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/724,822

Applicant(s)

LINNIK ET AL.

Examiner

Celine Qian

Art Unit

1636

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 January 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-64 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☒ Claim(s) 1-64 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Claims 1-64 are pending in the application.

Applicant's election without traverse of Group I in Paper No. 9 is acknowledged.

Accordingly, claims 52-64 are withdrawn from consideration as being directed to non-elected subject matter. Claims 1-51 are under examination. Upon further review of the claims, it was found that the examiner inadvertently overlooked that the Group I contains patentably distinct inventions. Therefore, further restriction is required. The office apologizes for the inconvenience that is caused by this mistake.

Election/Restrictions

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 1-20 and 33-39, drawn to a method of treating systemic lupus erythematosus, classified in class 536, subclass 23.1.
- II. Claims 21-32, drawn to a method of treating lupus nephritis, classified in class 536, subclass 23.1.
- III. Claims 40-45, drawn to a method of monitoring treatment for systemic lupus erythematosus, classified in class 536, subclass 23.1.
- IV. Claims 46-49, drawn to a method of identifying an individual who may be suitable for treatment for systemic lupus erythematosus, classified in class 536, subclass 23.1.

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- V. Claim 51, drawn to a method of identifying an antibody affinity which may indicate applicability of a treatment for an antibody-mediated pathology, classified in class 424, subclass 130.1.

Claim 50 embraces the inventions of Groups I-IV, and will be examined to the extend that reads on the elected subject matter.

The inventions of Groups I-V are patentably distinct each from the other because the inventions are drawn to methods that require different starting materials and modes of operation. Each method requires different method steps. Although the claims of Group I and II recites same steps, the population of the molecule administered to is different (people suffer from SLE or lupus nephritis), and the determinant of whether the treatment is effective is also different for those two diseases. Similarly, the criteria and parameter for disease monitoring (Group III), identification of individual suitable for treatment (Group IV) and disease treatment (Group I) are also different. As such, the methods of Groups I-IV require different steps. Therefore, the inventions of Groups I-V are patentably distinct.

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art because of their recognized divergent subject matter, restriction for examination purposes as indicated is proper.

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Celine X Qian whose telephone number is 703-306-0283. The examiner can normally be reached on 9:00-5:30 M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dr. Remy Yucel can be reached on 703-305-1998. The fax phone numbers for the organization where this application or proceeding is assigned are 703-305-3014 for regular communications and 703-305-3014 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0196.

Celine Qian, Ph.D.
April 12, 2002


REMY YUCEL, PH.D
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1600